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Mrs. Bernadette Jordan

Standing Committee on Fisheries and Oceans

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● (0845)

[*English*]

The Chair (Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.)): Good morning, everyone. Welcome to meeting number 97 of the Standing Committee on Fisheries and Oceans. Pursuant to the order of reference of Monday, April 16, 2018, we are dealing with Bill C-68, an act to amend the Fisheries Act and other Acts in consequence.

Before we get started I would like to welcome today, from Burnaby South, Kennedy Stewart.

Mr. Stewart, welcome.

Elizabeth May, from Saanich—Gulf Islands, thank you for joining us this morning.

And we have Colin Fraser, from West Nova, so we have a whole bunch of new people here today.

We're going to get right into our testimony. We have, from Save Our BC Fisheries, Duncan Cameron, and also from Ecotrust Canada, Tasha Sutcliffe, for the first hour of testimony.

We're going to start with Mr. Cameron, for 10 minutes please, with his opening statement.

Mr. Duncan Cameron (Skipper, Save Our BC Fisheries): Thank you, Madam Chair, for having me here today to share the story from the Pacific coast.

My name is Duncan Cameron. I'm a fourth-generation fisherman from Pender Harbour, British Columbia. I grew up fishing with my dad for salmon, halibut, and herring spawn on kelp. At 18 I started running my own fishing boat while studying at marine school for my 60-tonne, and a few years later my 150-tonne, ticket.

Although I really enjoyed fishing it was hard for me to see a future in it and entry to fisheries beyond salmon were too rich for my blood, and the price at the dock was very poor compared to the price at the fish counter. I started working in other parts of the marine industry and found myself a good union job with a tugboat company at 20 years old. It paid well, had good benefits, lots of time off, and I got to be on the water.

Unfortunately, it wasn't fishing. I returned to fishing at 22 and am 30 now, and in any given year I may fish halibut, salmon, spot prawns, and Dungeness crab. In the last 10 years licences have only become more unaffordable. I own two boats and have to lease all the licences I fish with. I am lucky enough to come from a family that has fishing licences and it is really the only way I've made it this far in fishing. My father leases me his halibut at a more generous rate than the industry standard, and he[illegible]me use his boat as collateral while I have taken loans out over the last 10 years.

There is no real succession plan here that could take place for halibut ITQs to me. He could set up a lease-to-own framework where he would give me a very attractive lease rate, but this is a gift, not a succession plan. A lot of the stories you hear from the west coast are just that. Very few young people are left, and almost every one comes from a fishing family with licences. There is a saying on the Pacific that if you want to make a million dollars in fishing you should start with $2 million.

That does not have to be the future we choose, though, and that is why I am here today to thank you for working on a bill that supports independent fish harvesters, including economic and social and cultural factors.

Let me tell you a little more about Pender Harbour, where I grew up. Pender Harbour used to be primarily a fishing and logging community. Sustainable primary industries funnelled money through the community, creating all sorts of secondary economies. At one point there were seven boat-building companies operating out of Pender Harbour. Many of the hulls you see on the B.C. coast and in Alaska originated from Pender Harbour. Within this vibrant economy there was a great sense of community, tradition, and respect for the ocean.

Now if you cruise around the harbour, it's mostly mansions with blinded up windows. Please do not confuse us with a failed industry asking for a bailout. This is an industry with a failed policy and we are suffocating underneath. With the correction of this policy we can bring life back to coastal communities.

After hearing this, it probably sounds like another story you've heard too many times, so let's get down to the facts. Under this current policy the value is no longer in the catch, but in licences or quota. Catching fish is simply a marginal cost to licence-holders and quota holders. Even fishermen who invested in quota just to lease out can no longer see the point when they are competing with a seafood company that has revenue streams other than just leasing. If this is not stopped, it is only the beginning of consolidation. I don't think I need to tell you where a consolidation cycle will end up when we are already seeing corporations abroad settle for lower returns on investment in our industry. On that I am referring to the recent sale of ITQs for over $50 million in one sale abroad.

Now I would like to refer you to an example of a new entrant, or someone who already has halibut quota, trying to buy more halibut. The prices I am citing here are the current prices for this week, roughly. It can be hard to gauge the actual price of buying quota because this time of year it doesn't move very often, so I've put it between $100 and $115 and chosen the low end for my example. The lease price this year has come down because the dock price has come down and the difference between the two is basically the bare minimum. The dock price here is $7, the lease price is between $5 to $5.50.

In my scenario here, a fisherman or a new entrant takes a loan out to purchase 10,000 pounds of halibut quota. Let's assume that the person can make a 20% down payment and that he will get the low end of the price at $100 per pound. To give this scenario a fighting chance, let's also assume that the person also has a boat with a video monitoring system and all the required gear. Please note that only a few banks will actually make this loan on any fishing privileges or halibut quota and the collateral would likely be set at 60% of the actual market value due to conditions with licensing. There would need to be significant collateral put up in addition. Let's assume that, being at $100 per pound, the interest rate is 5% for ease of math, and the payback period is 10 years, which, in my opinion, is quite a long period in what is a very dangerous industry.

● (0850)

So this person heads out on a trip to catch their new 10,000 pounds, and it's a great success. They avoid incidental bycatch, and have no gear loss or unexpected costs. The landed value is $70,000. Now let's remove expenses: bait, $1,000; monitoring, $1,500; fuel, $1,500; and food, $300. Once again, these are just estimates. Here comes the big expense—$50,000 to the quota holder.

Because of the high cost of buying halibut quota, it is pretty standard that the owner will take the market lease off the top before dividing up crew and boat shares if that quota has recently been purchased. People who outright own their quota already may do the same, or may give the crew a bigger share off the top. So we'll set the boat share at a relatively small share of 25%, the skipper share at 35%, and the two deckhands at 20% each.

Now that the trip is over we have to make a boat payment. On this loan for $1 million, with $200,000 down, and $800,000 remaining at 5%, there is a $40,000 interest payment to be made the first year, and an $80,000 principal payment.

The only problem is that even with the $50,000 taken off the top, and if the skipper takes all his income and the boat's income and puts it towards this payment, it adds up to $59,420, which is half of the required payment for the first year.

These prices are based on estimates on April 24, 2018, and the sharing landed value left over after expenses can differ from boat to boat.

I've heard several times that this bill will be permissible, and that it will be up to the fishermen to put this legislation to work. But how can we do that if licence-holders decide how the fisheries will be managed? You'll be giving us a vehicle to get where we want to go by giving the keys to the people who already have control over us.

I would like to ask if you could please change the wording in the act to support active fishermen, not just licence-holders. Can you please define what is an inshore fleet for B.C.? And can you please give clear direction when this bill passes, and I hope it does, to the Pacific region that we are going in a new direction and away from the toxic policy that we already have?

I think I have a couple of minutes left and I know you've heard a lot about owner-operator policy, and I'll just quickly touch on another change to the act here because I know it's a very broad act.

I'd like to talk now about something you're putting forward that I do not agree with whatsoever and I think it will cause further disconnect between the DFO and coastal communities. The change to give more power to enforcement officers will not help our coast. I understand the idea of giving them a big stick if it's used cautiously, but that is not what happens here. They have been irresponsible with their power time and time again.

Where I fish in the central and north coast of B.C. they are often only in a field office for one or two years after transferring. When they first arrive they often do not understand the conditions of licences properly for the local fisheries, and intimidate people, not understanding any of the science. Most of our fisheries are already fiercely monitored. I am engaged in an Area B Dungeness crab fishery. We are monitored any time we are on deck, by video, RFID scanner, hydraulic sensor, GPS, and speed indicators. All the data is uploaded to a cellular modem and audited to our service provider, who we pay heavy fees to already. The people who audit the footage have a very clear understanding of both the management plan and conditions of licence. Infractions are reported to the operator of the boat and the manager. Giving more power to fisheries officers is only going to create tension on the water and we already have monitoring in place.

I truly beg you to consider properly funding the charter patrolman program instead. It has been gutted down to nothing. I cannot think of a more important job on our coast than charter patrolman. I would encourage you to research more about this program. People from other countries are even doing documentaries on them now as they see what an important role they play in our ecosystem, even though there are only a few left. I have grown up watching them being replaced by people with handguns and bulletproof vests who bully people around with conditions of licence they don't even understand.

Thank you so much for your time. I realize this was short, so if you have any questions on other topics or changes to the act, I would gladly answer them in question period. Thank you.

● (0855)

The Chair: Thank you very much, Mr. Duncan. You still had 30 seconds left, so you did well.

Ms. Sutcliffe, for 10 minutes, please.

Ms. Tasha Sutcliffe (Vice-President, Programs, Ecotrust Canada): Good morning.

Thank you, Madam Chair, for having me here today.

My name is Tasha Sutcliffe. I'm the Vice-President of Ecotrust Canada. I also grew up in a fishing family. I spent my first birthday on a salmon troller, and I have spent my working life in fisheries and with the people and communities reliant on them.

Twenty-four years ago Ecotrust Canada came together, powered by the vision of people and nature thriving together. We believe that Canada's rural and remote communities can create vibrant and prosperous livelihoods and greater well-being through the use, stewardship, and co-management of local natural resources.

Much of our work has been focused on fisheries in rural communities on the Pacific coast, where we have worked to co-create sustainable fisheries solutions, such as licence banks, traceability, small fishing loan funds, and first nations-led monitoring.

Today I'm here to speak in favour of Bill C-68 as legislation that stands to improve the Fisheries Act, and to affirm that fisheries and fish harvesters must have the same opportunities on all coasts.

First, I have some general comments on the bill.

At Ecotrust Canada we applaud the recognition of indigenous traditional knowledge for consideration in decision-making, the new ability of indigenous governing bodies to enter into an agreement with the minister, and the commitment to consider any adverse effects that a decision by the minister may have on the rights of indigenous peoples. We also applaud that traditional knowledge, in a more general sense, can include the knowledge of harvesters who have been working the coast for generations.

We are heartened by the new definitions of "fish habitat" and of "fishery", which return protective measures to all fish and their habitat, not just those that are of commercial interest. This will help maintain the health of the ecosystem and, in turn, the many tangible and intangible benefits a healthy ecosystem provides.

Additionally, Bill C-68 introduces important new considerations for decision-making by the minister, all of which are important to viable fisheries, ecosystems, and coastal communities, and all of which are inextricably linked.

On the addition of social, cultural, and economic considerations, we emphatically endorse the inclusion of social, economic, and cultural factors for consideration by the minister in the management of fisheries, and our hope is that this will lead to greater parity between the Atlantic and Pacific regions. Our experience tells us that these considerations in the management of fisheries in coastal B.C. are necessary to help rebuild sustainable economies, local jobs, and thriving coastal communities that will help current and future generations of harvesters on the west coast.

To protect access for fish harvesters and communities, we recommend that the language in the bill not limit such considerations to "inshore fisheries" only. Though inclusion of this term is applicable in Atlantic Canada, we must ensure that the language does not exclude fish harvesters in the Arctic or the Pacific. For instance, it will be necessary to consult independent fish harvesters in the Pacific region to determine appropriate terminology and parallel policy if this is a prerequisite to the inclusion of social, economic, and cultural considerations in the management of the fishery.

On the independence of fish harvesters, the openly transferable, unregulated, and non-transparent market for licences and quota in B. C. has invited speculative investors and corporate consolidation of licences and quota, including by offshore interests. This has seriously impeded the independence and viability of our skippers and crew, as you have heard from others.

We applaud the insertion, in subsection 43(1), of a new scope of regulation under the Fisheries Act to address circumstances that would tie the licence to fish with a requirement to personally carry out any activity authorized by the licence. This, combined with a new ability to make regulations that would prohibit the transfer of licences except under prescribed conditions, can strengthen owner-operator and fleet separation policies, preserving the independence of those with fishing licences and enabling them to enjoy the full economic benefits from their labour.

The key term needing clarity to ensure that this clause would achieve its intended benefit is "licence holders". We assume here that this is meant to refer to fish harvesters. This, however, is not a given, especially in B.C., where licence-holders are increasingly not fish harvesters. We recommend that this term be replaced with "fish harvesters". Furthermore, as these clauses refer to where these restrictions already exist, this emphasizes the need to review current policy in the Pacific region and to understand how policy reform can occur on a fishery-by-fishery basis.

On the need for a stronger and more inclusive future for B.C.'s future, at Ecotrust we have observed, through our research and our close ties to coastal communities and fish harvesters, that unrestricted transferable quotas and licences have not worked for them. We have seen increasing and untenable debt loads, an aging industry, and a dramatic loss of jobs and incomes. Recent analysis of Statistics Canada tax filer data reveals that in 2015 the average fishing income for B.C. fish harvesters was $19,100, which is less than half the average fishing income earned by Atlantic Canada's fish harvesters of $42,795.

● (0900)

Over the period of 2000 to 2015, average income from fishing employment in B.C. dropped 28% in constant dollars, while the Atlantic provinces combined saw an increase of 45% after inflation in fishing incomes. It might be suggested that this drop in income for B.C. must be due to a collapse of the fishery or an equivalent loss in landed value. However, B.C. landings did not decline over that period. In fact, they slightly increased. They did lose 25% in market value, but the loss in total employment income for the industry was over 40%. There was also an 18% decline in that period in fish harvester jobs, which is nothing compared to the drop that we've seen over a longer period of time. Clearly, by the numbers and facts, the objective to increase incomes and improve enterprise viability through ITQs and fleet rationalization is not being achieved.

We know that sustainable small-scale fisheries can provide multiple benefits to their communities. Fish harvesters are small businesses. They run operations, employ crew, buy local supplies, and give back to community, ensuring that their family members, community members, and country members have healthy and high-quality foods, and they risk their lives to do so. There are many layers of value, from the landed value all the way through to a host of impactful, intangible values such as intergenerational knowledge transfer, gift and trade of food, and local stewardship.

These are all compromised under the current policy framework in the Pacific. In B.C., fish harvesters are struggling, as landed value is increasingly going to the non-fishing licence owner rather than active harvesters. Wholesale value and local employment are lost as processing leaves adjacent communities, and the less tangible benefits of the fishery that have formed the fabric of the coast for generations, and for first nations since time immemorial, are being eroded.

As you've heard already from others, change is needed. We need to transition respectfully and responsibly to an industry that young people can get into and thrive in for generations to come. In February of this year, we convened, along with our partners, a large and diverse gathering of food harvesters, organizations, and community groups. Among the over 120 participants were young and old fishermen, coastal community mayors, first nations leaders, academics, and environmental organizations. Despite the diverse perspectives and interests in the room, the gathering came to agreement on the need for fisheries policy reform in the Pacific region, and drafted the following consensus request:

> That the Minister of Fisheries, Oceans and the Canadian Coast Guard, perform an independent review of BC commercial fisheries licensing policy, built on a transparent & inclusive process, to:
>
> a) Ensure fisheries licensing policy in the Pacific region supports independent fish harvesters, First Nations, and the revival of rural fishing communities, and
>
> b) Determine how "social, economic, and cultural" objectives are to be achieved in Pacific region fisheries.

It is our hope that this committee will support and actively engage in such a review.

The gathering also came to agreement on a list of principles for policy reform that can easily be translated into a vision for the future of Pacific coast fisheries. These can be found in the proceedings report I have provided to the committee clerk, and I hope you'll read these.

I want to express that although the language of the bill is permissive for B.C. to push for change, there's a need for leadership by government to explore options, help bring people together, and develop consensus across the industry on ways to address these challenges and move forward.

In conclusion, we believe that Bill C-68 represents a unique and powerful opportunity to achieve positive change for first nations, active fish harvesters, and fishing communities in British Columbia. To enable this, we hope you will consider these simple language changes that can create opportunities for better implementation. We urge you to remember the voices of the young B.C. harvesters you've heard—Chelsey, Cailyn, James, and Duncan—as they represent a positive future for our fisheries.

Finally, we will continue to offer our expertise, research, and analysis in any way we can to support our community partners and the government in working hard on the common goal of creating a fair, prosperous and sustainable Canadian fishery from coast to coast to coast.

Thank you again for the opportunity to appear here before you today.

● (0905)

The Chair: Thank you, Ms. Sutcliffe.

We will now go to the government side for questions.

For the first seven minutes we have Mr. Hardie, please.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you, Madam Chair.

Thank you to the two of you. Your testimony, along with what we heard on Tuesday, has introduced a very clear west coast perspective to this conversation, something that has been missing in many of our conversations so far.

While I do want to go into the owner-operator thing, but as you suggest, Ms. Sutcliffe, that's worth a study on its own. I want to go back, then, to the purpose of these hearings, which is to study the bill itself.

My first question is for you, Duncan. You mentioned that the only thing that gives you cause for concern is allowing more power to enforcement officers. Is this an issue of training, orientation, sensitivity, knowledge building, or just oversight?

Mr. Duncan Cameron: I don't think it's oversight. The issue begins with capacity on the lower end and data collection and science. To have proper management plans that the enforcement officer is enforcing, we have to have proper science and data to create those management plans. When we don't even have that part and are limited in capacity in the actual management plan, then people are going to enforce a management plan that barely gets put out in time for the fishery. The manager has no capacity to bring in enforcement officers and say, "These are a few conditions of licence we'd like to enforce this year and why", and so they pull from this large list of conditions. Maybe it's that your bait cup screws should be on rather than the clips on, and they find that in the condition of licence.

I'm a northern crab fisherman. A condition of licence that we have is that our traps can only soak for 18 days. There is no biological reason for that, but the reason is to prevent people from having their gear for too long. There is a possibility if there is very heavy crab they may cannibalize themselves, but the main issue is littering. Last year a partner of mine was caught in bad weather and he let his gear soak for an additional eight days and then got the gear when the weather calmed down, and he was charged more than $40,000, I believe, for that offence.

They want to do their job, and it's nothing against enforcement. I don't know where the disconnect truly lies, but I believe it's in communication and building better data and science to steer that management plan in a better direction to communicate with enforcement.

Mr. Ken Hardie: Talk to me about the charter patrolmen you mentioned.

Mr. Duncan Cameron: When I was younger, there were more charter patrolmen. Basically a charter patrolman had some mild enforcement capabilities, but they would go around and walk in salmon streams, or if the herring were spawning, they'd go out and sound for herring. They would usually live in the area they monitored the whole year, or a better part of the year, and they would spend a good part of their career there, so they had true continuity in their view of the ecosystem. Say one year there are no prawns in an inlet for some reason and no one can understand why. Maybe the charter patrolman was there when three humpback whales were rearing and they were eating shrimp, right—

● (0910)

Mr. Ken Hardie: What was the interaction between the fishers and these—

Mr. Duncan Cameron: They would also work for monitoring companies, say JO Thomas and Associates. They would monitor our roe on kelp or spawn on kelp fishery so they'd be there watching how many plants we put in the water, which we had to report. They'd be sounding the herring and delivering that to DFO and the monitoring company.

Mr. Ken Hardie: What was the relationship, though? You mentioned they had mild enforcement powers. What would they do, and what was the nature of the relationship between these patrolmen and the fishers? Was it helpful? Was it consultative, or was it just enforcement?

Mr. Duncan Cameron: It was a much more positive relationship. If you were violating a condition of licence, they were going to tell you about it, but it was positive. They would come on the boat for coffee in the morning and talk about maybe where they'd seen herring or how there weren't enough coho in a stream. It was a very positive relationship and they had a good relationship with the community.

Mr. Ken Hardie: Okay, in the time I have left I have a quick question for you, Ms. Sutcliffe. How do we go about unwinding the current system, if, in the fullness of time, we want to transition more toward the east coast model on the west coast?

Ms. Tasha Sutcliffe: That's a big question. Thank you for asking it.

I would preface my remarks by saying that engaging in conversation with the communities and the harvesters who really have answers to all the complexities within their fisheries is critical, but I would say there are real, tangible examples out there for how to transition industries not just in fisheries but elsewhere. Of course, we have our PIIFCAF example. There are examples in the meat industry. There are examples around the world, and thinking about different mechanisms to transition ownership from the current licence-holder up to active fishermen is a doable proposition.

There are mechanisms through [*Inaudible—Editor*] that have been used. There are popular mechanisms around gradually reducing allocation over time. If you're leasing, that can go into a pool that can be reallocated to owner-operators. There are tax mechanisms.

What really has to happen in addition to the review that we're asking for is that we need the government to start helping to lead and engage in doing the research to try to figure out what those alternatives are. But really, they're going to have to be informed by harvesters, because it will be different fishery by fishery in B.C. There are different conditions and it's quite a tangled mess right now.

We will be providing a brief with more details from Ecotrust Canada's perspective. We will include some of that information in the brief as well.

Mr. Ken Hardie: Very good. I wish I had more time. I have lots more questions.

The Chair: You have another minute.

Mr. Ken Hardie: Do I?

Okay, let's turn this on its head. Who, on the water, likes the current system and why?

Ms. Tasha Sutcliffe: On the water? Not a lot of people on the water like the current system. There are fish harvesters who are quite invested in the fishery right now and there are a lot of fisheries that are not very viable, so people are relying on the opportunity to sell their assets, and the value of those assets for retirement. That's why we talk about a respectful, responsible transition. Most of the people who are concerned are worried about transition. They're worried about the only value they can see that they can get out of the fishery any more, being from the sale of assets.

Mr. Ken Hardie: Could I just ask Duncan for a quick response?

Mr. Duncan Cameron: Sure, I'll just do a quick, two-part response.

First, the one answer that you get a lot of the time that's incorrect is that corporations have to own ITQs and that that's needed in the groundfish fishery. People can own ITQs. We can trade yelloweye to operate in the groundfish fishery.

Second, a lot of people are worried because they bought into a system where their return on investment from simply fishing isn't good enough, and have had to buy into these ITQs for their retirement. They're reliant on this is as a retirement tool, for their family and education and everything, so you have to unwind that in a way where their retirement isn't—

The Chair: I'm sorry, Mr. Cameron, I'm going to have to stop you there. Maybe somebody else can let you finish that thought.

Up next, we're going to Mr. Doherty for seven minutes, please.

Mr. Todd Doherty (Cariboo—Prince George, CPC): Thank you, Madam Chair.

I want to start by confirming something for the committee. Ms. Sutcliffe mentioned a report that had been done previously and said that we had received it. Are we are in receipt of that and will it be circulated to all members of the committee?

The Chair: That's correct.

Mr. Todd Doherty: Thank you.

I'd be very interested in looking at that report.

To both of our guests today, is it your testimony today that government policy has not been applied equally on east coast versus west coast?

Ms. Tasha Sutcliffe: Yes.

There are completely different policies around licencing from the east coast to the west coast. We have no owner-operator fleet separation policies on the west coast.

Mr. Duncan Cameron: Yes.

It's just a different direction. I don't know if it's been applied equally.

● (0915)

Mr. Todd Doherty: Okay.

Is it okay if I use your first names?

I appreciate both of your testimony.

When we hear first-hand from fishers—those who make their living or those whose family makes their living off the water in the communities that are going to be impacted by policy—it's very important for us. Sadly, sometimes I think 10 or 20 minutes is not enough.

Can you tell the committee, were either of you consulted on Bill C-55?

Ms. Tasha Sutcliffe: I was not.

Mr. Duncan Cameron: No.

Mr. Todd Doherty: Is this the first time you've been consulted by the government on a piece of policy?

Ms. Tasha Sutcliffe: Yes.

Mr. Duncan Cameron: Yes.

Mr. Todd Doherty: Thank you.

Mr. Cameron, you mentioned a recent sale of ITQs for $50 million to an offshore or foreign group. Are you at liberty to tell us who that group is, or not?

Mr. Duncan Cameron: No, I do not have the details.

There was a recent *Globe and Mail* story that came out about it. It's not $50 million exactly. I believe it's just over $50 million.

That sale was offered to someone in B.C., but no one in B.C. could afford it, so that's why it was sold.

Ms. Tasha Sutcliffe: It was an individual. The name is known, but people are afraid to pass information on because they're afraid of being blacklisted.

Mr. Todd Doherty: That's understandable.

Duncan, you mentioned that fishers are being intimidated, but I didn't hear by who. Who are the fishermen being intimidated by?

Mr. Duncan Cameron: I think when I was speaking, I was referring to the increase in power for enforcement officers.

Mr. Todd Doherty: Okay.

Mr. Duncan Cameron: It's just the culture of how they interact.

Mr. Todd Doherty: Right, okay.

Mr. Duncan Cameron: It's not actually holding something over someone; it's just the manner and the culture.

Mr. Todd Doherty: Right.

Further to Mr. Hardie's question about the charter patrolmen program, was that volunteer or was it part of DFO?

Mr. Duncan Cameron: Yes, it was a DFO-funded program. It's been cut, since, I believe, the 1970s. Last year, there were still two major.... There are still six or seven charter patrolmen, I believe, but every year they're sort of dying off. There are not really any new entrants to that program.

Mr. Todd Doherty: Madam Chair, I'd like to have the analyst or the clerks potentially get us some information on that to share with the committee.

Duncan, on the east coast recently, there was an arbitrary decision made by the Minister of Fisheries and Oceans for the Canadian Coast Guard to arbitrarily go in and remove or withdraw or take 25% of quota from a group with respect to a surf clam fishery.

Does it bother you, or are you aware of this, that a minister could potentially come in and just arbitrarily take it without consultation?

Mr. Duncan Cameron: Absolutely, yes.

Mr. Todd Doherty: Have you been following the surf clam?

Mr. Duncan Cameron: I read the headlines and the first paragraph, so that's about the depth I know of it.

Mr. Todd Doherty: It would be scary for you. It would, again, lead to more uncertainty within a myriad of uncertainties that your family and you face in trying to just eke out a living. Is that correct?

Mr. Duncan Cameron: Uncertainty is the key word when you talk about fear on the Pacific coast, and if the point—I don't know the issue that well—is to reconcile with indigenous people then hopefully you will do that in a transparent, principled way so that you are reconciling and moving forward together and not leaving some people behind.

Mr. Todd Doherty: When we talk about reconciliation and about fisheries, would it be safe to say that there are non-first nation families that perhaps have been fishing for generations as well?

Mr. Duncan Cameron: Absolutely. Now we're talking about reconciliation with first nations and fisheries, but I think it's really important to talk about the same policies and the Mifflin plan. This policy on the Pacific coast is really one of the biggest factors in pushing indigenous people out of their traditional livelihood, and it's still happening right now.

Mr. Todd Doherty: There is a quota that can be given to different groups for testing a fishery on the Pacific coast. What's that name?

Ms. Tasha Sutcliffe: Like a pilot fishery?

Mr. Todd Doherty: A pilot fishery or a pilot quota. Is that what it is? It can be awarded to different groups, and there is no time frame. Is that correct?

Ms. Tasha Sutcliffe: I'm not sure of the time frame question.

Mr. Todd Doherty: A test fishery?

Mr. Duncan Cameron: I'm not familiar with any program like that.

Mr. Todd Doherty: I'll move forward.

I want to ask further about some of the challenges you face on the Pacific coast. I'm a B.C. member of Parliament. I'm landlocked, but I am the shadow minister of fisheries, oceans, and the Canadian Coast Guard. I'm very well aware of the issues and challenges that we face on our Pacific coast. It has been fairly frustrating for us as British Columbians to see some of the policy that has come forth.

In your testimony today, you said there have been very important pieces of legislation that, by all accounts, have been rushed through by the government to get its legislative agenda through. Your two groups have not been consulted, and that's very frustrating to me. It's one of the things that we've been asking for along the way.

Mr. Cameron, if you can, talk about some of the other challenges you face on the west coast. I think you've been very articulate in some of the things you've said, but are there any other challenges or policies that worry you as we move forward?

● (0920)

The Chair: In 10 seconds or less, I'm afraid.

Mr. Duncan Cameron: How about you book a whole day?

That said, I'd still like to see the bill passed.

Mr. Todd Doherty: Thanks.

The Chair: We now go to Mr. Stewart for seven minutes, please.

Mr. Kennedy Stewart (Burnaby South, NDP): Thank you, Chair.

Thanks to the witnesses coming forward.

I grew up on the east coast, and I know fisheries are a big part of our culture there, and then of course coming to the west coast, it's the same. The difference between the two fisheries is confusing to me, so I really thank you for your stories here today.

I know you have your main points that you've been trying to make all the way through, but if there are peripheral or minor points that you feel you want to add, please consider mentioning them because they can sometimes be just as important when we're writing legislation.

The first question I have is for both of you. We've talked quite a lot about this, but I'll just allow you some time to elaborate. How would you like to see the principle of owner-operator and fleet separation applied on the Pacific coast? We have talked a little bit about that as we go through, but could you elaborate a bit more?

Maybe we could start with Mr. Cameron.

Mr. Duncan Cameron: I heard that at the Tuesday meeting it was asked of a few of the witnesses how this should be done.

First of all, not to be rude, I look to your expertise as policy-makers to help draft that sort of legislation. Second, I've spent my whole life with one or two fisheries managers or ministers deciding what management plans will look like based on someone's thoughts that roll through their heads, and I don't want to be one of those people.

This needs to take place where you are consulting both the people who don't want this and those who want it. The welder in the community, the former boat builder, everyone needs to be consulted. That's how I'd like to see it take place, with an independent review.

Mr. Kennedy Stewart: Thank you.

Ms. Sutcliffe?

Ms. Tasha Sutcliffe: I would agree with Duncan.

I will add that I think there are some very strong principles around how this can be applied in policy reform in that report I referenced. I don't have them all listed in my head right now, so I won't try to repeat them. I will emphasize the need for a fair and transparent process and the need for that responsible and respectful transition. We definitely don't want to harm the people who are already entangled and stuck in the current system despite their own potential advice against it originally. People have become quite entangled in it.

I will also say, in addition to the comments I made on the bill, that it's also about ensuring that the language is applicable to other coasts and not just Atlantic Canada. Really, the language doesn't necessarily explicitly exclude B.C., as it is permissive, but terms like "ensure" and "licence-holders" are problematic for B.C. That really needs to be thoughtfully reconsidered.

There are other things that I think can be done, such as looking at potentially establishing some transparency around licence ownership —who owns the licence and how much they purchased it for. There is no transparency right now. We're doing a lot of work trying to figure out and get to the root of ownership, and also to determine what's owned by non-Canadian interests. It's very, very, very hard to get to that information. There is very little transparency.

So I guess "transparency" is a pretty key word, and listening to the people on the coast who really do have, and are talking a lot about, good ideas about how to get out of this situation. I think the minister's expression was "unscrambling the omelet". Well, there are people on the coast who have very good ideas about how to unscramble the omelet, and we're hoping to contribute our time and research to that as well.

Mr. Kennedy Stewart: Okay. Thanks.

I'm just on this committee for one day—we usually have Fin Donnelly here, who is, of course, very knowledgeable about this—but it strikes me as strange that we have this public resource, which all Canadians own, and then we sell the management of it to a very small group of people and kind of lease it back. It would be very strange if it were like that on land. It's weird that we apply it to the water, in the same way, so I really thank you for helping me understand how this is working and how deep these problems are, specifically applied to the Pacific coast.

Going back to the owner-operator and fleet separation issue, can you think of the greatest barrier to moving this over? We talked about perhaps a lack of consultation. Do you see other barriers to applying this?

● (0925)

Ms. Tasha Sutcliffe: I think the barrier felt by a lot of the people we work with on the coast is the very large corporate lobby. There is another opinion out there, and I'm sure you will hear about it at some point during the hearings. I hope you remember these testimonies, because you will probably hear people say, and probably have heard people say, that things are fine.

We're saying that if you are actually in the community, if you go out to the community, if you actually hit the docks in Prince Rupert, Ucluelet, Bella Bella, and you go into Ahousat, the conditions are not good for harvesters. Docks are crumbling. Boats are crumbling. That sounds like an anecdote, but you just have to go there to see it. That's where we both are, and we know that to be true.

Mr. Kennedy Stewart: Did you have anything to add, Mr. Cameron?

Mr. Duncan Cameron: To add to Tasha's point, if you have someone testifying here from that lobby group, I encourage you to just look at the facts. Bring in an economist. Don't look at us. I mean, it's easy to get locked into rhetoric, trying to present such a vast amount of information in 10 minutes. I encourage you to not listen to a bunch of fishermen about economics but to bring in economic analysis.

Then go to these places. I think you'll see the truth quite clearly. You can drive south of the border to Washington if you want to see what a boatbuilding industry looks like. It's not dissolved down there. One of the oil spill response boats that the oceans protection plan just spent money on was built by Rozema Boat Works, which used to build gillnetters and grew out of the lack of boatbuilding in B.C. in the 1990s.

Ms. Tasha Sutcliffe: That's also why I think both Duncan and I tried to bring some numbers here today. We do have numbers that show through statistics, not just stories, that incomes are declining and jobs are declining.

Mr. Kennedy Stewart: I'm just trying to think of the ideal. When you're writing legislation, there are lines of text with all kinds of punctuation marks. I'm wondering if both of you, perhaps, could paint a vision of where you would like to see this go ideally. If you woke up in the morning said, "This is the perfect fishery", what would that look like on the west coast?

The Chair: You have 35 seconds.

Mr. Kennedy Stewart: Just give us your dream scenario for the fishery on the west coast.

Mr. Duncan Cameron: Thirty seconds of the dream is that when you transition to this, you have a way of.... There's not as much leasing revenue, but fishing revenue goes up. If the people who bought licences for their retirement are impacted, their revenue from fishing itself should go up enough to recoup that, hopefully. If not, you have to look further into that.

With regard to large corporations that are just leasing and don't get involved in fishing, well, I probably shouldn't share my opinion of that right here.

Ms. Tasha Sutcliffe: I would add that the benefit of local fisheries —

The Chair: I'm sorry, I have to cut you off. The time is up.

Ms. Tasha Sutcliffe: Fair enough.

The Chair: Mr. McDonald, you have seven minutes, please.

Mr. Ken McDonald (Avalon, Lib.): Thank you, Madam Chair.

I will be splitting my time with Mr. Fraser. Perhaps you could let me know when my time is up, or close to it.

Thank you to our witnesses for being here.

Mr. Cameron, I have a quick question, just because it was brought up here, about the surf clam issue on the east coast. I'm from Newfoundland, as far east as you can get, and from what I'm learning, the fishery there is quite different from the one on the west coast.

Do you think any one person or corporate entity involved in the fishery should own the total quota of any given resource?

Mr. Duncan Cameron: I don't believe so, no.

Mr. Ken McDonald: Okay: that's part of the reason why the minister did what he did with the surf clam issue. One person controlled that entire quota. Nobody else was in on it.

I get the feeling from other witnesses who were here from the west coast that one person controls about 80% of the quota and just about all the resources on the west coast. Is that true, or...?

Mr. Duncan Cameron: No. I think maybe on certain gear methods and certain fisheries that could be true. But take halibut, for instance; if you're referring to Jimmy Pattison, I think his quota holdings are actually only—where you can find them—around 3%. It sort of varies from fishery to fishery.

Ms. Tasha Sutcliffe: It's concentrated in certain fisheries.

Mr. Ken McDonald: All right.

Do you think the minister should have the power to be able to put the quota back in the hands of the fishermen who are involved in any given fishery?

● (0930)

Ms. Tasha Sutcliffe: Yes.

Mr. Duncan Cameron: Yes, but I don't think it should just be dictated overnight like the flick of a light-switch. Hopefully, it will be done in a principled way—

Mr. Ken McDonald: Yes.

Mr. Duncan Cameron: —where mitigation is dealt with.

Mr. Ken McDonald: On the east coast, with regard to owner-operators—being from there, this is something I hear from fishermen and from the FFAW, the union that represents them—they want owner-operator entrenched in the act so that it would have some teeth. It was a policy that didn't seem to have any teeth for the officials and the government to be able to make it work. I'm delighted that it's there. It's odd to hear there are the same concerns on the west coast, because we didn't hear that when we were studying the Fisheries Act. I don't whether or not the people who presented from the west coast didn't bring it up. From listening to the people on Tuesday, and now you today, I think it's somewhere we have to move to, and probably as soon as possible.

You mentioned parity. It's very difficult in the fishery to get parity, I think. On the east coast there are rules and regulations in place that differ from province to province, let alone from one end of the country to the other end. It's difficult, but I think it's time we opened that envelope and started moving in that direction. I'm sure it won't happen overnight, but it is something that I think should be done. It should be more uniform. At the end of the day, it's the fishermen who should get the value of the resource that's in the water.

Is that my time, Madam Chair?

The Chair: You have 20 seconds left.

Mr. Ken McDonald: Over to you, Mr. Fraser.

The Chair: Mr. Fraser, you have three and a half minutes.

Mr. Colin Fraser (West Nova, Lib.): Thanks very much, Madam Chair. I got 20 seconds extra, which I've now just wasted.

Thank you very much to both of you for being here. We appreciate it.

Duncan, you talked a little bit about the differences in the fishing incomes between Pacific fishermen and Atlantic fishermen. I understand that obviously there are different species that are being fished. For example, on the Atlantic coast, I come from a riding where lobster fishing is doing extremely well, but there are some challenges there as well, which this bill addresses.

I wonder if you could comment a little bit about the different value of species. We've seen the demand for lobster increase as the market access opens up around the world. Can some of the differences in the amount of income fishermen are making on the Pacific coast and the Atlantic coast be attributed to that?

Mr. Duncan Cameron: I think it was Tasha who was reading from that report.

Mr. Colin Fraser: I'd like to hear from both of you on that.

Mr. Duncan Cameron: I'll comment on the fact that in the lobster fishery, the export price has certainly gone up, but as it has gone up, the fishermen have also captured a share amount of that value. I don't think the price of sockeye salmon in the world has stayed stagnant for the last 30 years, but somehow the dock price has. It's that share of the end value that I'm concerned about.

I think Tasha has more details on that.

Mr. Colin Fraser: Sure.

Ms. Tasha Sutcliffe: The whole value chain is impacted by the policy in B.C. Sea urchin is going for a very high wholesale market price, and fish harvesters are not only not getting a share of that wholesale value; they're also not getting a share of the landed value. For the most part, they can't afford to lease the licence, so they're just being paid wages to fish at very low wages. They may be getting $2.50 a pound for sea urchin that may be going for.... We don't even know, because it's not transparent. It may be $20 a pound to the market.

I think the value of lobster in Atlantic Canada and the policies combined do speak to why there are greater earnings in Atlantic Canada. There's no reason we can't have that in B.C. There's no reason that we shouldn't be able to add value to our species, that halibut couldn't be as valuable or more valuable than lobster, and that fishermen couldn't get a share of that value.

Mr. Colin Fraser: Can you help me? I'm not normally a member of this committee and am just filling in today, but I'm obviously very interested. I understand the difference between owner-operators on the east coast versus the west coast, but can you talk a bit about active fishermen versus licence-holders and give me some idea of how many actual licence owners on the west coast are active fishermen? Are most people who are active fishermen the licence-holders? Or is that not the case?

Ms. Tasha Sutcliffe: It's very hard to get exact numbers, but increasingly the shift is towards those who are non-active, because the incentive is that you can now make more money by being the leaser. If you as a fisherman originally get the quota, there's a strong incentive over time that either you sell that, because you can make a lot of money on it, or your next generation may lease it. There's a lot of the new generation who are getting quota and leasing it, because they can earn revenue off that without fishing. Every generation, it moves further.... The per cent of licences used by active fisherman is decreasing.

● (0935)

Mr. Colin Fraser: When you mention the lease of a quota, is it also the licence? I mean, these are separate—

Ms. Tasha Sutcliffe: It's the licence as well. They're both openly transferable. Anyone, really, can buy and use a licence or a quota.

Mr. Colin Fraser: All right.

Duncan, you talked about enforcement officers. If I can summarize what you said, it was more to do with the lack of good feelings, I guess, between the fishermen and the enforcement officers, because the officers don't necessarily know the rules, or they don't understand the conditions of the licence or the policy. Is it a matter of training?

The Chair: I'm sorry, Mr. Fraser. I'm going to have to wrap it up.

Mr. Colin Fraser: Perhaps you can submit that—

The Chair: Do I have—

Mr. Colin Fraser: Can you submit that answer in writing to the committee, please?

The Chair: Could you submit that answer to the committee in writing? Thank you very much.

We're going now to Mr. Arnold for five minutes, please.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): I'll give my time to Mr. Doherty.

The Chair: Do you want me to pass over the time, or do you just want to pass it over when you're done?

Mr. Mel Arnold: He can do one question and I'll take the rest of it.

Mr. Todd Doherty: Thanks.

Duncan, you mentioned that you fish two primary fisheries, is it? Or one?

Mr. Duncan Cameron: I fish four fisheries a year. My primary fishery this year, since it's okay this year, is Dungeness crab, but I fish in salmon, halibut, both spot prawns and Dungeness crab, and herring.

Mr. Todd Doherty: The reason I ask is that our colleague.... You're going to get caught in a bit of a family squabble here, so I apologize.

Mr. Duncan Cameron: It sounds like fishing.

Voices: Oh, oh!

Mr. Todd Doherty: This is just for clarity. My honourable colleague, Mr. McDonald, is being a little disingenuous with you, but I'm going to put it in Pacific terms for you.

The surf clam issue, Duncan, is like your Dungeness crab fishery. The minister comes in and arbitrarily takes 50% or a quarter of your ITQ or your quota, say, and awards it to an organization, and not even an organization, but a person from Alberta who doesn't have a boat, doesn't have a vessel, and doesn't have experience doing this, under the guise of reconciliation. Would you think that's fair?

Mr. Duncan Cameron: If I could, how about if I try to answer both questions at the same time, Ken's and yours?

I don't think it's fair that one person owns the entire fishery, and I also don't think it's fair that you reallocate it in the way that it was. The fact that they got to that point.... I don't know the details of the fishery. Maybe they developed the whole fishery themselves. I don't know those details to speak to that.

Mr. Todd Doherty: They did.

Mr. Duncan Cameron: I don't know, but....

Mr. Todd Doherty: No, that's great. I appreciate it. Thank you.

The Chair: Mr. Arnold.

Mr. Mel Arnold: Thank you, Madam Chair. I've got a bit of a bug, so I've got a very low voice today.

Thanks to both of you for being here.

Just last week, there was a Supreme Court of British Columbia decision in the Nuu-chah-nulth and Ahousaht court case on their rights to harvest commercially. Have you had a chance to look at that decision and how it might affect this act or your fisheries?

Ms. Tasha Sutcliffe: Very briefly, but not long enough to present any analysis on it.

Mr. Mel Arnold: You haven't dug into it in depth to see that the fisheries minister has recognized that one of the first things he has to do is look at the Pacific salmon allocation policy?

Ms. Tasha Sutcliffe: I'm aware of it, yes. I've looked at it. I just have not dug into it, as you say.

Mr. Mel Arnold: Does that cause concern for the people you represent or you as a fisherman?

Mr. Duncan Cameron: I've slept about 20 hours in the last six days just trying to get here and to fish to get here. The fact that I don't know the details of the Ahousaht decision is telling of the number of problems we have to deal with, so I'm sorry, I can't speak to it. I don't have enough information to talk to that.

Mr. Mel Arnold: Okay.

May I ask whom you actually represent? I see that you, Ms. Sutcliffe, are from Ecotrust. You, Duncan Cameron, are here as an individual, but you mentioned.... Is it Save Our BC Fisheries?

Mr. Duncan Cameron: Save Our BC Fisheries is a website petition that was started after Dominic was talking about bringing in these owner-operator policies, but hadn't really seen support for the idea on the Pacific coast. Many people, not just fishermen, said, "What do you mean there's no support?" That's where it came from.

Another tipping point was that sale abroad. This is a petition to show that there is support for those policies on the Pacific coast and that we'd like to see them implemented in a fair and principled way. The issue is not just about fishing. You're going to lose B.C. coast pilots to navigate the increasingly heavy traffic in B.C.

There's food security for all of Canada. One of the first people on the conference call was a fishmonger from Toronto. I guess I'm just representing a sort of grassroots movement petition for support for this one part of the act.

● (0940)

Mr. Mel Arnold: Thank you.

Ms. Sutcliffe, according to Ecotrust.ca, your organization provides "facilitation and intermediation, building trust and providing space for hard decisions and negotiations."

Is it the position of your organization that people invested in Canadian fisheries support or desire a loss of food security, unhealthy coastal communities, and unhealthy coastal ecosystems?

Ms. Tasha Sutcliffe: I'm sorry, can you repeat the question?

Mr. Mel Arnold: Is it the position of your organization that the people invested in Canadian fisheries support or desire a loss of food security, unhealthy coastal communities, and unhealthy coastal ecosystems?

Ms. Tasha Sutcliffe: That they desire the loss?

Mr. Mel Arnold: Is it the opinion of your organization that this is what the people invested in the fisheries desire?

Ms. Tasha Sutcliffe: I don't think anyone desires those things, no.

The Chair: Thank you. That's your time.

We move on now to Mr. Rogers for five minutes.

Mr. Churence Rogers (Bonavista—Burin—Trinity, Lib.): Thank you, Madam Chair. I have a couple of questions for Duncan and Tasha.

First let me say that it's nice to hear from you today, Duncan, talking about the financial challenges of acquiring licences or doing the things you need to do to stay in a fishery.

To start a fishery at your age, 22 years old, and to try to do the things you're doing is admirable. I commend you for taking on that kind of job in your life, even though you have family support, no doubt. That's great.

And Tasha, thank you for some of your comments.

I'm trying to get to an understanding of the Pacific fishery. This is new to me as well, as I haven't heard a lot of information about the fishery on the west coast. I know a fair bit about the east coast, but not the west; I'll readily admit that.

Does Bill C-68, from your perspective, enable a potential future transition from the current commercial fisheries' licensing policy in British Columbia to a new regime that would better support independent fishers? If not, what amendments do you think are required?

Tasha, I know you alluded to a couple, but I'd like to hear comments from either one of you or both.

Mr. Duncan Cameron: I would almost ask the question back to the room, if it's permissible. The active harvesters don't have the tools to dictate those advisory boards or management plans. If it it were permissible, how would we bring it in? I don't know. Everything sounds good, but how do we actually enact it? We can talk about how the transition needs to be fair and so on, but I don't know how we get about that transition when we don't have any leverage or any way of being part of the conversation.

Mr. Churence Rogers: Tasha, do you want to comment on that question as well?

Ms. Tasha Sutcliffe: I think the bill greatly improves the ability to argue for change in B.C. The inclusion of social, economic, and cultural factors...there are many ways in which it lays a foundation that will make it much easier to argue for change.

Implementing it, however, depends on policy and regulation change, and that's going to be a tougher conversation. There needs to be work done to explore the options. As I said earlier, I believe there are options, and we're doing our own analysis on what those options may look like, just to provide evidence and data and analysis to the partners we're working with to help them form their decisions.

It's very hard, however, to know what exactly that will look like. I can't say exactly what it will look like right now, but I believe there are real options and real transitions that can happen. I think it can be done in a fair, principled way such that it doesn't compromise people who get caught up in the change.

What we heard at the gathering was that people consider this urgent. It needs to be timely and it needs to be committed to. Although we feel strongly about the necessity of the independent review, we would not want it to be used to shelve or delay action. I think the government's supporting of engagement while simultaneously exploring what the options for transition could be is doable; it has been done. The work has to be done, though, to figure out what the option is.

I believe this can happen, and I believe that the bill will more greatly enable it to happen.

● (0945)

Mr. Churence Rogers: Thank you.

I'm trying to get a sense of how to do this legislation properly and correctly so as to have real impact for you people on the Pacific coast. I'm trying to get a sense of what this committee should recommend to the minister or DFO going forward.

That's where I am; I'm just trying to get a sense of what amendments might be out there that you know of or what things you support and what some of the things are that you have alluded to.

That's really my question. I'm trying to figure this out. I simply want to find a solution for you guys.

Ms. Tasha Sutcliffe: Absolutely.

I'd say definitely the whole section on social, economic, and cultural considerations needs to not just be about a definition of inshore fisheries that applies only to Atlantic Canada. It's very important for Atlantic Canada that it be there, but it needs to not exclude Pacific and Arctic coasts. That language is really important.

The Chair: Thank you very much, Ms. Sutcliffe.

That's your time.

Mr. Todd Doherty: May I just ask for clarification, please, from Duncan?

I thought our colleague Churence Rogers asked a great question. I believe, Duncan, you made the comment about advisory panels. Was your response that we should ensure that the independent harvesters are on the advisory panels? Was it about how they go about getting on to those advisory panels?

Mr. Duncan Cameron: Do I have time?

The Chair: I will allow the answer. Please go ahead.

Mr. Duncan Cameron: There's no quick answer. I can provide a written answer.

I sit on an advisory board not as a licence holder, but that's not often the case. It's a very complex answer. I'm sorry.

The Chair: Thank you.

Ms. Sutcliffe, Mr. Cameron, thank you very much for appearing today. We appreciate your testimony. I think we all learned a bit more about the B.C. fishery than we were aware of.

I'm going to suspend for a few minutes to change panels.

Thank you very much.

• _____ (Pause) _____

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• (0950)

The Chair: We're continuing with our study on the Fisheries Act.

We have, in the second hour of our study, Ecojustice Canada. Appearing by video conference is Margot Venton, Staff Lawyer and Director of the Marine Program.

Can you hear me, Ms. Venton?

Ms. Margot Venton (Staff Lawyer and Director of Marine Program, Ecojustice Canada): Yes, I can, Madam Chair.

The Chair: Thank you.

From Ontario Power Generation we have Dan Gibson, Senior Environmental Specialist.

Welcome.

We're going to start with Ms. Venton, please, for 10 minutes.

Ms. Margot Venton: Thank you, Madam Chair, and members of the committee. Good morning from British Columbia.

As the chair said, my name is Margot Venton. I'm a Staff Lawyer with Ecojustice Canada, a national charity dedicated to preserving and protecting the environment using Canadian law. We have approximately 20,000 donors throughout Canada.

I've been a staff lawyer with Ecojustice for 20 years, and my perspective on the Fisheries Act is informed by those years of advising and representing clients on marine species, fisheries, and aquaculture issues. I've been counsel in a number of legal cases interpreting and seeking to enforce the Fisheries Act, including the habitat provisions.

I thank this committee for this opportunity to again engage in the ongoing review and improvement of the habitat protection provisions under the act. This is a really important stage in the lengthy process of law-making. It's the time for the committee to get the details of these provisions right. It's really the last opportunity for us to ensure that habitat protection provisions are as strong and as functional as they can be. We are pleased that the amended legislation will restore the lost protections previously afforded fish habitat, through the reinstatement of the prohibition against harmful alteration, disruption, or destruction of fish habitat, which we all refer to as HADD.

There are five areas where, in our opinion, the bill falls short of fulfilling the mandate to ensure modern safeguards for the protection of fish and fish habitat. I'll only have time to present today on two of these areas, which are the need for a conservation purpose in the Fisheries Act, and amendments necessary to ensure that the cumulative effects of individual HADDs are effectively addressed and assessed.

In addition to those two topics, our written brief will also address the need to ensure that environmental flows and fish passage are protected as aspects of fish habitat, the need to strengthen the provisions dealing with rebuilding depleted fish stocks, and finally, the need to ensure that climate change is an express consideration in proposed section 2.5.

Turning to amendments necessary to confirm the conservation purpose of the Fisheries Act, the purpose of a statute is to reflect both Parliament's intent in passing the legislation and the minister's mandate under the act. Our fisheries are a common property resource. They're held by the government in trust and managed by the minister and DFO for the benefit of Canadians and of future generations. A clear conservation duty flows from this arrangement. The purpose section of the bill, as currently proposed, is largely descriptive of the minister's management responsibility. It should be strengthened to better reflect the outcomes the law is intended to deliver.

Canadian case law interpreting the fisheries' power under the Constitution supports the position that the Fisheries Act should have a conservation purpose, and the Supreme Court has clearly stated that the conservation of the fishery is the minister's primary obligation under the Fisheries Act.

The purpose section should also clearly articulate that the purpose of the act is to provide for the sustainable use of the fishery, consistent with Canada's commitments under international law. Therefore, we recommend that the purpose section be amended to clearly state that the purpose of the act is to provide for the long-term conservation and sustainable use of the fishery, in addition to the proper management and control of fisheries and the conservation and protection of fish and fish habitat.

In his testimony on April 24, the minister stated that he was open to amending the purpose section to add reference to conservation and long-term sustainability of the fishery. The committee also heard Tuesday from three young people from fishing communities in Canada, and their testimony underscored the important role that fishing plays, not just in the economy but also in the culture of coastal communities. Adding long-term conservation and sustainable use of the fishery to the purpose section reflects Canada's commitments to the international community, to Canadian case law interpreting the fisheries' power, and to the long-term survival of coastal fishing communities.

I'll now turn to the amendments necessary to enable assessing and addressing cumulative effects. The need for the Fisheries Act to address the cumulative effects of individual HADD authorizations was raised by many witnesses, including Ecojustice, before this committee in the fall of 2016.

● (0955)

The committee recommended that cumulative effects be addressed in the act, and the introduction in the bill of section 34.1 requiring the consideration of cumulative effects when authorizing or permitting certain HADDs, as well as the public registry, are both welcome additions that will help address cumulative effects. However, further changes are necessary to ensure that cumulative effects can be both effectively assessed and addressed.

This is because fish habitat is degraded not only by major projects, but also through the impact of smaller-scale works, undertakings, and activities. To stem the tide of incremental loss of habitat, DFO needs to do a better job of considering and addressing this cumulative loss of habitat through small projects. The act needs to provide a framework to enable DFO to do this important work.

It is important that whatever system is adopted is practical and manageable. To be effective, a cumulative effects provision needs also to be comprehensive, so simply ignoring certain HADDs out of a quest for administrative or regulatory simplicity will result in a cumulative loss of fish habitat if it continues over the long term.

We propose two amendments to better enable the assessing and addressing of cumulative effects. I will first outline the amendments proposed to ensure the act provides a framework to address the cumulative effects of individual HADDs.

The bill is vague on whether and how the cumulative impact of HADD sanctioned under the act will be addressed. While the proposed new subsection 35(1) imposes a strong prohibition against HADD, it is of course not an absolute prohibition. HADD is sanctioned in many ways, including the six categories of exemption currently proposed under subsection 35(2), which include HADD authorizations, permits for HADD of designated projects, and harm exempted from the prohibition through regulation.

Further, HADD can be sanctioned under sections other than 35. DFO has yet to provide any details of what, if any, HADD will be authorized under codes of conduct. It does not appear that cumulative effects is a required consideration when developing these codes of practice. Also, DFO is still talking about using letters of advice, which doesn't appear anywhere in the act. The letters of advice are sent out outlining to proponents willing to undertake an activity how to avoid HADD when carrying out a project. They are unenforceable and, as far as we know, not monitored; they often result in HADD.

To address the incremental loss of fish habitat, DFO needs to deal with the totality of all this sanctioned habitat loss. We propose the following amendments to ensure that the framework of the act supports fully addressing cumulative effects. These recommendations could be adopted individually or on their own.

The goal is to signal to the bureaucracy that one way or another, HADD is supposed to be addressed. Whether that is through compensation elsewhere, or directly requiring restoration, those details will be up to DFO. It can be worked out in the regulatory phase, but if the intent is not clearly signalled now, it likely won't actually happen later.

We propose amending section 35 to add that "[a]ny work, undertaking or activity that results in [HADD] is an offense unless sanctioned under section 35(2)."

This would stop the authorization of HADD outside of the regulatory scheme. Additionally, if DFO is intent on keeping the letters of advice tool, we recommend that section 35(2) be amended to include letters of advice as an express authorizing tool. This would bring this practice inside the regulatory scheme and make it more enforceable.

Alternatively, or additionally, we recommend amending subsection 35(2) to add that "[t]he Minister shall ensure compensation for all [HADD] permitted or otherwise enabled under s. 35(2) or through projects carried out under codes of practice." This again clearly signals Parliament's intent that all this incremental HADD is to be addressed somehow, leaving to DFO the flexibility of how they do that.

Finally, I'll turn to amendments to enhance the assessment of cumulative effects. Obviously, to do a good job of addressing cumulative effects, you need good information about what HADD has happened in a particular estuary, lake, or river.

● (1000)

We propose strengthening the ability of the new registry to be a useful tool for assessing cumulative effects on fish habitat by adding to the minimum requirements of documents that necessarily need to be posted on the registry. This includes—

The Chair: Thank you, Ms. Venton. I'm sorry, but I'm going to have to cut you off there. Your 10 minutes is up.

Ms. Margot Venton: That's fine.

The Chair: We're going now to Mr. Gibson, please, for his 10 minutes.

Mr. Dan Gibson (Senior Environment Specialist, Ontario Power Generation Inc.): Thank you very much, Madam Chair and members of the committee. Ontario Power Generation appreciates the opportunity to appear before you today at the standing committee.

OPG, Ontario's largest clean-energy generator, is focused on safe, reliable and sustainable electricity generation. The company's electricity generation portfolio has an in-service capacity of over 17,000 megawatts. We operate two nuclear power generating stations, two biomass-fuelled thermal generating stations, one oil-and-gas thermal station, 66 hydroelectric generating stations, and one wind-power turbine. As of 2018, I'm proud to say, our power generation is more than 99% free of smog and carbon emissions and maintains a critical role in Canada's greenhouse gas emission reduction targets.

OPG has also long been involved in fisheries management in our province, including more recently our work on American eel, lake sturgeon, and Atlantic salmon restoration and recovery efforts across the province, and also including proudly working with our first nations partners on a number of these initiatives.

OPG has also been very actively involved in all aspects of this federal review and supports the delegations—both written and before this committee—coming forward from the Ontario Waterpower Association, the Canadian Nuclear Association, the Canadian Hydropower Association, and the Canadian Electricity Association.

Like many other proponents commenting on Bill C-68, permitting certainty and regulatory clarity are of paramount importance to our organization. While OPG applauds the government's efforts to implement modern safeguards in the act, we believe that additional amendments are required to properly balance the environmental protections the government seeks to attain with the interest of the end-use consumers and customers, and to maintain Canada's leadership role in low-carbon electricity generation, both domestically and through exports.

Of interest to OPG are the following recommendations to improve the act. I'll start with no order of preference here, but will simply be stating them as we go. We'll start with the purpose statement.

On the stated definition of "fish habitat" in subclause 1(5), the "conservation and protection of fish" in proposed paragraph 2.1(b), and the prohibitions listed in proposed sections 34.4 and 35, OPG acknowledges the government's stated desire to "restore lost protections" in order to conserve and protect fish and fish habitat. It is vitally important, however, for consistency of application, that all of these sections align with the higher-order objective of the purpose statement, which is stated in proposed paragraph 2.1(a) and that is for "the proper management and control of fisheries".

As currently written, the purpose statement seems to establish two distinct clauses: one being the management of fisheries as a resource, while the other, along with the prohibitions in proposed sections 34.4 and 35, seem to focus on and pertain down to conservation and protection of each individual fish.

OPG has concerns with this interpretation and application of the prohibitions themselves. While the purpose statement focuses on fisheries as a resource, which we support, the prohibitions seem to focus, again, on individual fish. OPG recommends that this uncertainty can be remedied in the purpose statement with a simple amendment, that is, "the proper management and control of fisheries through the conservation and protection of fish and fish habitat, including by preventing pollution" would clarify this for our organizations.

Secondly, on the specific prohibitions and exceptions—specifically, proposed sections 34.4. and 35—they also seem at times, when you look downstream at the application of the act, in slight contradiction to the first purpose statement, which is to manage the fisheries as a resource. The proposed prohibition under proposed section 34.4, for instance, suggests that any incidental death of fish, potentially a single fish, could be construed as a contravention of the act without a permit or an authorization. This is a critical distinction for large power-generating companies.

The prohibition focusing on individual fish, as opposed to fisheries, is concerning to generation proponents across the country. The government could further address this concern by amending proposed subsection 34.2(1) to include the establishment of a code of practice which would allow some incidental harm to fish while still maintaining the act's stated purpose, which is the "proper management and control of fisheries".

Similarly, proposed section 35 is reintroducing the prohibition of HADD, as we've already heard mentioned, that being fish habitat or "water frequented by fish", and we would recommend that a reasonable scope come to this application. For example, exemptions, including intake canals, penstocks, and things of that nature, or ancillary structures next to power generating facilities that were built for the purpose of facility operation and not intended to be frequented by fish, but sometimes are, should be considered. Such exemptions should be considered.

● (1005)

We'll move on to proposed new sections 2.5 and 34.1. These state factors to be considered by the minister.

We believe there could be greater alignment of these two provisions with the proposed Impact Assessment Act. Specifically, proposed sections 2.5 and 34.1 list the factors that the minister "may" or "shall" consider when making decisions under the act.

OPG, along with our industry colleagues, believes there is a need to align these sections in the Fisheries Act with the proposed IAA specifically wherever the public interest is considered. Under the impact assessment, the public interest is considered, and this is left out of these provisions under the proposed Fisheries Act.

When a project designated under the Fisheries Act has already gone through an impact assessment and has obtained a positive decision, the impact assessment decision statement should inform and streamline the permitting and authorization process under the Fisheries Act. This could be made explicit in a decision statement issued under the impact assessment articulating the expected economic outcomes of the project, including their relevance to the public interest.

I'll move on to inter-jurisdictional collaboration, a theme that we've identified across our organizations. Inter-jurisdictional regulatory regimes are not new to us; they are governing powers that govern us. They are very complex and often include numerous stakeholder and indigenous interests. Navigating these regulatory frameworks is a critical requirement for the safe and reliable operation of power generating facilities. That's from the federal to provincial to municipal jurisdictions.

To this end, and specific to water management, OPG strongly believes that wherever equivalent or existing provincial water management regimes exist, proposed section 34.3 of the act, whereby the minister has the ability to mandate flow around obstructions, only serves to add to the complexity and uncertainty of these inter-jurisdictional controls.

In the case of OPG specifically, our provincial hydroelectric power plants are already governed by numerous water management agencies and regulatory policies, including but not limited to provincial water management plans, Parks Canada on the Trent-Severn Waterway, the International Joint Commission on our boundary waters, and federal water control boards such as Lake of the Woods Control Board.

Further, the Ontario Lakes and Rivers Improvement Act in Ontario and the Water Resources Act regulate water power facilities through our province and include in their provisions the management, perpetuation, and use of the fish, wildlife, and other natural resources dependent on lake and river ecosystems. Suffice it to say, we have a lot of governance in this issue, and proposed new section 34.3 presents some concerns to us.

It is for these reasons OPG recommends that proposed new section 34.3 of the act should only be applicable in cases in which equivalent provincial or jurisdictional powers do not already exist.

If, however, the government intends to maintain these provisions, OPG insists that a vital amendment is required to the act, that being that prior to making an order under proposed section 34.3 for the management and control of an obstruction, the minister be required to consult with any provincial or federal authority also exercising, in this area of water management, powers that may overlap, may be in conflict, or may be inconsistent with the terms of an order to be issued by the minister.

Finally, OPG has long advocated for and welcomes the provisions in the act for a habitat banking system that advances the effective and efficient management of Canadian fisheries' resources. We also welcome the flexibility afforded the governor in council under the proposed legislation for designing this scheme.

On this point, however, OPG would also recommend adding flexibility to widen the potential creation and use of credits by project proponents and third party groups in a manner that advances both fish habitat conservation objectives and economic objectives. Improved clarification regarding the calculation and eligibility of offsets should be a focus, moving forward. We encourage the government to maintain a flexible, modern approach when working with proponents on the applicability of a habitat banking and offset system.

Secondly, and consistent with such other credit and debit systems as our cap and trade emissions system in Ontario, there should be a capacity of the governor in council to regulate not only the creation, allocation, and management of credits, but also their exchange in trade.

As mentioned, OPG has worked extensively with our parent organizations, the Canadian Electricity Association, the Canadian Nuclear Association, the Canadian Hydro Power Association, and the OWA in preparing these respective submissions.

● (1010)

I can safely say that the electrical sector is unified in our position that Bill C-68 requires amendments to best serve all parties—

The Chair: Thank you, Mr. Gibson. I'm going to have to cut you off there for your 10 minutes.

Going to the government side for seven minutes of questioning, we have Mr. Morrissey, please.

Mr. Robert Morrissey (Egmont, Lib.): I'm going to give my first question to Ms. May.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): I'm very grateful for that. Thank you to the government side.

Margot, it's Elizabeth May here, your MP. I want to be very concise because this time has been given to me.

The mandate around what Dominic LeBlanc is doing is under the rubric of restoring lost protections. I don't want to take us out of Bill C-68 too far, but we know that we lost those protections in Bill C-38, which also took out one of the critical triggers that I think came to mind when you were speaking of how you look at small project, what you look at, the incremental, and whether we can look at the cumulative.

I don't know if you want to speculate about this, but if the committee studying Bill C-69, the impact assessment piece, were to restore the trigger that used to be there in section 35, would that address concerns that you're trying to amend through Bill C-68 or not?

Did that question make sense?

Ms. Margot Venton: Thank you, Elizabeth. I think I have it.

This is a question of what we look at before. What do we consider through the environmental assessment process as part of the process of issuing fisheries authorizations? If you expanded the scope of triggers, if you basically said that when you approve harm to fish habitat under section 35, you will do an environmental assessment of some scale, that would definitely improve it. That's one way of solving the problem, absolutely.

Mr. Robert Morrissey: My question is for Ms. Venton. There doesn't appear to be any disagreement on the desire to protect traditional fish habitat or long-established fish habitat. The area where there's a lot of discussion is in areas that have been designated as fish habitat that were artificially built. We hear from municipalities, from the farming community, and from the power community, on habitat that became habitat. It was artificially created by municipalities from drainage ditches, farmer's doo, and irrigation lagoons—those various sources. Would you agree that this should be at best a secondary approach? How can government be clear on regulating that?

The minister and the act refer to a code of practice. The other part that the people involved get frustrated with is the lack of a clear definition. They sometimes do not realize they are actually doing an activity that creates an infraction. Most of what we've heard seems to be around what I will term "artificial habitat" or habitat that was created by one of those activities. Would you comment on where you see government's role there.

Ms. Margot Venton: Obviously, there's a key component in effectively protecting fish habitat where education comes into play. Where it's going to be important and, I think, historically has been a challenge is to explain to people what is fish habitat is and what is harm to fish habitat. From a biological perspective, I think it's challenging to create a bright line between what is "natural" fish habitat and what is artificial fish habitat. For example, in an area like the Fraser Valley, where you traditionally have abundant fish habitat and then have developed that area to do a whole bunch of different activities—you have people living there, and you have farmers farming there—I don't think it would be useful to try to distinguish between what is "natural" and what is not natural.

I think it is important for us going forward to educate people as to what activities can harm fish habitat. It seems that this act does create a framework to develop those codes of practice for what you would consider to be, I suppose, activities. My understanding is that they will be used in the agricultural sector. Theoretically, that could be a very useful tool. Our comment is that if you're going to do that, if you're going to develop codes of practice for activities in agriculture or around municipalities, you need to think about the cumulative effects, the cumulative loss of fish habitat that you're enabling through codes of practice, and make sure that those impacts are compensated for in some way under the act.

● (1015)

Mr. Robert Morrissey: You do recognize that there is a distinction between some habitat now termed "fish habitat" that was artificially created and the natural fish environment.

That's a specific question.

Ms. Margot Venton: It's a tricky one.

Mr. Robert Morrissey: No, it's not, because it can be clearly outlined and clearly defined. There is a difference.

The Chair: You have a minute and a half.

Mr. Robert Morrissey: I have a question for Mr. Gibson.

Could you expand a bit on the comment in which you referred to welcoming habitat banking? One position that has been given at different times to the committee is in the area of replacing habitat that may have been altered by a more conducive habitat.

Mr. Dan Gibson: Perhaps I'll use a case study that I love coming back to, just because I think it's a great example of a case in which habitat banking and offsetting calculations have been effective.

In the case of our Pickering and Darlington nuclear generating facilities, we needed to offset for the loss of fish coming through our facilities—in this case, in the Great Lakes, alewife.

Under the old provisions of the act it would have been like for like. The expectation would have been that you're removing alewife from the system through your water intakes; therefore, you're going to replace alewife.

However, with this modern and robust thinking around habitat banking and offsets, we could break it down to a productivity unit. Since we are removing *x* number of productivity units out of Lake Ontario every year, we could replace those productivity units with something the fishery or the ecosystem actually needed.

In the case of the Great Lakes, it's well accepted that the loss of coastal wetlands in the Great Lakes is a massive impediment to productivity. In the case of Pickering and Darlington, then, we focused our attention on coastal wetland re-creation in the Bay of Quinte. We rehabilitated what was essentially a number of hectares of unproductive wetland.

Through calculations, we were able to determine that the amount of productivity we are removing from Lake Ontario every year is being replaced by this productive coastal wetland, which is really taking care of a far vaster species diversity than would have been removed. Whereas we were removing alewife, then, we're now actually replacing species at risk; we're replacing some targets—

The Chair: Thank you, Mr. Gibson. I'm sorry, but I'm going to have to cut you off there.

Mr. Doherty, you have seven minutes, please.

Mr. Todd Doherty: I defer my time to Mr. Miller.

The Chair: Mr. Miller, you have seven minutes.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Thank you very much, Ms. Venton and Mr. Gibson, for being here.

It's quite obvious, Mr. Gibson, that you have a number of concerns with this legislation. You talked about incidental harm to fish. I think I know what you mean. When you are constructing power dams, power lines, or whatever, stuff happens, sometimes not intentionally.

Could you explain a little bit more about what you were referring to and the degree of incidental harm that you think should be allowable? I don't want to put words in your mouth.

● (1020)

Mr. Dan Gibson: Thank you.

Through you, Madam Chair, the question we have been back and forth on with the Fisheries Act for quite some time is about the management of fisheries or the management of every single fish. That's something we've continually posed a question about.

When we're managing a fishery, there's an understanding that with a resource there is some incidental take or incidental exploitation. With large power generation, we're using—in the case of hydro-electricity, anyway—water as a fuel source, and we're putting it through our turbines. We can show definitively that the amount of mortality is low but that seasonally some mortality or some incidental harm may occur.

Whether that's impacting the population level is a separate question. We have always maintained that when we are having a reasonable, non-detectable impact at the population level, we would like to have it governed as a resource rather than have to get a permit for the potential for harm to every single fish.

Mr. Larry Miller: Do you think it would be acceptable to have some kind of compensation for that incidental harm, say through habitat banking? Can you comment on that a bit?

Mr. Dan Gibson: I agree. The quantification is difficult at times simply because you're having to seasonally account for what species may or may not be encountering your facility, but on a larger, strategic basis, compensation or habitat banking could absolutely be used as an effective tool for offsetting those potentially harmful impacts to a species on an individual level.

Mr. Larry Miller: Okay, thank you.

I want to move to HADD. You talked about exemptions, etc. Could you expand on the types of exemptions, or rather the types of activities that deserve exemptions?

Mr. Dan Gibson: A great example might be some of our nuclear power facilities, where we are responsible for the stormwater treatment and collection of stormwater on our plant sites. Where those stormwater catchments are placed, we have to service the stormwater management ponds. If those ponds become colonized by cyprinids or a minnow that is highly tolerant to salt and so on, is that now treated as habitat? We believe there is room in the act to designate an exemption under those rules. Where those pools or those areas were not intended to be frequented by fish but fish have colonized them, we would still like an exemption to be able to service those areas.

Mr. Larry Miller: I just want to make sure I heard you right when you talked about impact assessments. I got the feeling that you do these impact assessments, and then basically they're not accepted, or in the forum. Was I hearing you correctly?

Mr. Dan Gibson: That's a good point. The public interest is taken into account in the impact assessment, and where a positive decision is made under the Impact Assessment Act, we believe that should streamline the approvals process under the Fisheries Act. That's just a logical step.

We'd like to see that enhanced in the sense that the Fisheries Act should take into account the public interest as well, whether that be carbon emissions reductions or something else, depending on the type of your project. We believe there's space for the public interest in proposed subsections 34.3 or 34.1 of the act.

Mr. Larry Miller: Okay, next you talked about problems within jurisdictions. I almost got the feeling you were suggesting there are too many bosses and not enough workers. Could you enlarge on that?

Part of that is, if there's a problem in there with a number of different levels of government, is part of the problem also the aspect of aboriginal impacts? I mean, we all know there's a duty to consult, but I know that in my part of the world, quite often it's really not about consulting at all. It's just, how big is the cheque?

Could you comment on all those in general?

Mr. Dan Gibson: In the space of water management, this is a big piece to some of our concerns with the act. There are very complex and diverse opinions around water management, whether they be those of stakeholders or landowners, and whether they relate to navigation, pleasure craft operating, fisheries, or aquatic ecosystems. We have many pieces of legislation in Ontario alone. For that matter, we've canvassed nationally. You'll hear this a few times from delegations. Nationally, there is a vast amount of regulation and governance over water management, and we believe that the minister should be careful when treading in with a mandate flow. There is a lot of current, existing legislation on the books on that, which we want to bring attention to.

● (1025)

Mr. Larry Miller: In essence, I thought I heard you the first time saying that, basically, there's a lot of governance there, and maybe too much at times.

Mr. Dan Gibson: It adds to the complexity, yes. We would want the minister to ensure that the department is consulting those other levels of government and control bodies before issuing mandates.

Mr. Larry Miller: I'm running out of time, and I have just one last thing. You talked about adding flexibility. I also wrote down "habitat banking" there, and I know Mr. Morrissey talked about it. Maybe you could talk a bit about the kind of flexibility you'd like to see added in there.

Mr. Dan Gibson: I'll finish the case study. In this case study we moved away from like for like. We moved into non-like for like, but we actually had better conservation and recovery outcomes through the case study of the Pickering nuclear habitat bank. We believe we achieved greater outcomes by getting more into a banking scheme and moving away from a like-for-like replacement, which is the old transactional piece of the Fisheries Act.

The Chair: Thank you, Mr. Gibson.

I'm moving now to Mr. Stewart for seven minutes, thank you.

Mr. Kennedy Stewart: Thank you very much, Chair. Thank you very much to the witnesses coming forward today. Because I'm from the west coast, I'll be asking Ms. Venton the most questions. Thank you, Mr. Gibson.

I was very interested to hear your testimony, and thanks very much for all the work you've put into this. Of course, I'm very familiar with your organization, and would like to thank you generally for all the contributions you make to Canada.

You mentioned at the outset of your presentation that you noticed five weaknesses in the act, or things that should be corrected. The first one I got was adding the idea of conservation to the act's purpose, and the second was adding clauses concerning the cumulative effects of habitat loss.

I have two questions, and please feel free to expand and don't feel rushed. First of all, I don't know if there's anything else you'd like to add about the two conditions—the two weaknesses related to the act's purpose or the cumulative effects of habitat loss. Then I'm also interested in the three other concerns. Perhaps you could elaborate on those.

Ms. Margot Venton: Thank you for that question.

First of all, I think I've said a lot on the purpose and the changes necessary to ensure that we address all the cumulative effects of fish habitat loss.

With respect to those last proposals, on making sure that the act is a tool for assessing cumulative effects, the bill as you all know proposes adding a public registry. That, we think, is a very useful tool, extremely important for improving the transparency of decision-making within the Department of Fisheries and Oceans, for a whole bunch of reasons.

Also, this registry could be a very useful tool to enable the assessment of the state of fish habitat in a particular lake or estuary. However, it's only going to be a useful tool if we include all the instruments that are relevant to that place. Right now there's a short list of things that will be included, but it won't include such things as habitat that is sanctioned under regulations. In an estuary where there are multiple fish farms, for example, you won't necessarily have that information come up on the registry, and as we know from Tuesday's report of the Commissioner of the Environment and Sustainable Development there's a big problem with fish habitat and fish farms, particularly in British Columbia.

Those kinds of things all need to be in some place where everyone can see them and where DFO has them all together and can use them as an assessment tool.

Turning to other areas that I haven't had time to touch on and will speak about in our brief, climate change needs to be a consideration in the Fisheries Act somewhere. It's one of the major threats to fisheries production, particularly for species such as salmon, which as you know is of huge concern on the Pacific coast.

Also, we need to ensure that environmental flows are protected under the Fisheries Act as an aspect of fish habitat. My colleague from West Coast Environmental Law spoke a little about that on Tuesday.

We have proposed one particular tool that we think would be quite useful, which is adding a clause to the obstruction provisions to allow for a member of the public to request that an obstruction be removed or that a potential obstruction of fish habitat be investigated, ensuring that DFO would have to at least investigate and respond.

We think this is a nod also to the vastness of Canada and the real challenge we have seen within the department of having enough resources to be out in the world actually looking at what's happening in fish habitat on the ground. We need tools to enable Canadians to participate with DFO in this important job, just because Canada is so big, really.

The final provisions that we think need to be strengthened are those with respect to stock rebuilding. We think it's amazing that those provisions have been introduced in the act as a concept, but we need to make clearer that there are end goals for healthy fish stocks that need to be added into the act, to make that provision more functional for ensuring that stock recovery actually happens.

● (1030)

Mr. Kennedy Stewart: Thank you.

On a topic related to the bill, Washington State has begun to move offshore fish farms onto land, and I know this happens in a number of jurisdictions. We've had spills from fish farms of effluent that is very dangerous to the community.

In my view, this is something that should be examined and perhaps pursued in British Columbia. Do you have any thoughts on moving offshore fish farms on land?

Ms. Margot Venton: I think moving to closed containment is the only responsible thing to do at this point in our understanding of the impacts of fish farms on wild stocks. The report of the Commissioner of the Environment and Sustainable Development released on Tuesday was quite shocking. At the end of her press conference, the commissioner said that this was one of the most alarming audits she had ever done.

We simply don't fully understand the impacts that fish farms are having on wild salmon. We have crashing wild salmon stocks in British Columbia, as you know. This is a travesty for coastal communities and first nations who rely on these stocks, for a variety of reasons. Until we can prove that those farms are not harming wild salmon, in my opinion they shouldn't be in the ocean. We've seen such action taken in countries around the world, including in the United States and in Norway, where fish farms originated.

Yes, then, I think at this point it's the only responsible thing to do. Until we can get to a point that we're certain fish farming in the ocean is safe, they shouldn't be there.

Mr. Kennedy Stewart: Thanks. I have 48 seconds.

Perhaps you could tell us a little more about the international jurisdictions relating to closed containment. Where will we go for the best examples of what to do?

Ms. Margot Venton: My understanding is that both Sweden and Norway have recently brought in restrictions on open net fish farms. In Sweden they have to do with areas where there's sensitive fish habitat. In Norway I'm not sure if they've particularly designated where fish farms won't be allowed. Both jurisdictions are considering moves to closed containment.

Mr. Kennedy Stewart: Okay. That's fine.

Thank you very much for your time and your testimony today.

The Chair: Thank you very much.

We're moving now to Mr. Hardie, please, for seven minutes.

Mr. Ken Hardie: Thank you both for your testimony here.

I'm going to just pose a question to you, with an invitation to follow up with some thoughts once you've had a chance to consider it.

We've become sensitive in some of the other studies we've done to a proper balance between legislation and regulation. The legislation hardwires something in, and once it's there it is relatively difficult to change or amend as conditions change. Regulation, of course, is a bit easier to deal with. You made me think of it, Ms. Venton, when you talked about the introduction of stock recovery and whether or not that's a hard-wired issue or something that again, as conditions change—through climate change, for example—needs to be better parked in regulation. If you could look at this legislation through that lens and get back to us with some recommendations as to what appropriately belongs where, that would be good.

Ms. Venton, I wanted to get a little more reflection on cumulative impacts. You started an answer, and you ran out of time. Do you remember what that was, and do you want to complete it?

Ms. Margot Venton: Sure, and I added a bit of it in response to the question from Mr. Stewart.

I was talking about the need to ensure that the public registry includes all the instruments that authorize harm to fish habitat. Under the act, there are a variety of ways HADD can be sanctioned. For the registry to be truly useful as a tool to notify Canadians about what's happening on the [*Inaudible—Editor*] waters and also to be useful as a tool for DFO, we have to make sure all that information is available. At the moment, there's only a limited subset of information about what kinds of authorizations to harm habitat will actually be included in the public registry.

● (1035)

Mr. Ken Hardie: One issue that has come up in some private conversations—and I presume, in the fullness of time, here—on the cumulative impacts, is the concern that the last one in is going to get tagged with the cumulative sins of the ones who came before. Can you postulate some kind of regime where, in fact, this can be better managed and more equitably dealt with across the entities or individuals who have cumulatively contributed to the problem?

Ms. Margot Venton: I'd say the starting point for equitably managing that question is to actually start grappling with the totality of the authorizations for fish habitat destruction that are being issued. We need better information earlier in order to avoid that place. What's happening now is that DFO, as far as I understand it, doesn't have a good handle on the totality or the state of fish habitat. We're seeing responses once we hit that tipping point.

Gathering all the information and keeping track of what you're doing in a watershed ideally will lead to better management earlier. In an ideal world, if you have a framework for cumulative effects, you could, for example, have regulatory instruments that say, "in this lake" or "in this area" or "in this estuary, this is where we think the tipping point is." Let's equitably distribute opportunities earlier and just be clear about where those tipping points are.

Mr. Ken Hardie: I'm going to interrupt here because I have one more question.

It seems as though there's an analogy to municipal land management, really. You zone land, and you accept only so much of something, and there you go.

Mr. Gibson, I take the point that you're concerned about the impact of killing a fish versus having an impact on a fishery, but I'm concerned that one fish becomes two fish becomes three fish, and before you know it we're now chasing a problem instead of being out in front of it.

Can you best describe an agreeable balance here? Yes, of course, an intake is always going to have an impact on fish, but talk to us about what you would be prepared to do in terms of proper measuring and monitoring so that the situation doesn't get away on us.

Mr. Dan Gibson: That's an excellent point. I'll reflect back on your comment about the prohibition and then the regulation.

The regulation that is already on the table with DFO is your position statement on fish mortality, as well as your position statement on existing facilities that govern energy generators. That's where we think some of this balance can be struck, on the regulatory side. We understand that prohibition is what it is, but when we get down to the implementation side, we think the balance can be struck there. We have a good track record in terms of our effectiveness in monitoring the impacts we're having on our watershed or in how we're managing the water in our watershed. We have effectiveness monitoring plans that get carried out every year on a lot of our regulated rivers.

Speaking specifically to the local jurisdictional concerns from the Minister of Natural Resources, it would take more time to answer that question, but absolutely, there's a willingness to achieve a balance from industry.

The Chair: You have a minute and 30 seconds.

Mr. Ken Hardie: Lovely.

Mr. Gibson, you were talking about your case study on habitat banking, in which, instead of applying some remedy where the damage was happening, you went someplace else and did something that one hopes was bigger and even better.

Ms. Venton, I saw you nodding throughout that. Do you agree that this is a reasonable and rational approach?

Ms. Margot Venton: It depends entirely on the context. Certainly, as I understand the proposals from a habitat banking perspective, the idea is to move toward allowing habitat to be restored or enhanced in an area that isn't necessarily exactly where the habitat disturbance is. Depending on the context, that could be appropriate. Obviously, if that's a particularly sensitive area, this may not be an appropriate solution because you'll need restoration on site, but in certain circumstances, absolutely.

I think what we need to be careful of, however, is how far we're going to let that go. I would be concerned if we were going to, say, write off an entire area or an entire ecosystem and say we're going to fix an ecosystem three or four watersheds over. That might be an inappropriate extension of that concept, but theoretically there needs to be some flexibility to look at where we can maximize the productivity and health of ecosystems. There may be circumstances in which that's appropriate.

● (1040)

The Chair: Thank you very much, Ms. Venton.

I'm going to Mr. Arnold for the final five minutes, please.

Mr. Mel Arnold: Thank you, Madam Chair, and thank you both for being here today.

First, I want to clarify something that's been put out there. In fact, I asked this question early on when we knew this was coming up, by submitting an Order Paper question to the government in 2016 on the changes to the Fisheries Act in 2012-13. One of the specific things I asked was what harms or proof of harm to fish or fish habitat, attributed to the previous government's changes to these two acts, existed.

Even after the fisheries minister was here at committee on Tuesday, we still have not seen any proof of loss of habitat or harm to fish, so I want to first dispel the mistruth that there was lost protection. That's first and foremost. I want to know for myself. I put the question to the government and was never provided any proof of loss, even though I've asked multiple times.

Ms. Venton and Mr. Gibson, how do we remain competitive as Canadians or as Canada when we have probably the most restrictive management processes, I would say, almost anywhere in the world? Maybe it's not everywhere.

When we're competing with countries or organizations internationally that don't adhere to the same strict guidelines, principles, and regulations that we have here in Canada, how do we remain competitive? How can that fit into this bill? Either one of you can answer.

Mr. Gibson, you look like you're ready.

Mr. Dan Gibson: I will say that, obviously, we're always struggling for balance in the proposed legislation. I think it would be a comment from most of our associations across Canada that balance is what they hope to have.

I'll speak specifically for low-carbon energy generation. We know that domestically it is a source of growth for our economy, and we don't want to hinder that through overly burdensome legislation. Also, for our energy exports, we have a lot of neighbours to the south that are looking to get off of certain forms of energy, and they'd like to import Canada's clean, renewable energy. Those are things that we would continue to advocate for through our parents organizations. The Canadian Hydropower Association is a big champion of our energy exports to the United States as we help them get off coal and other forms of generation. That would be our advocacy piece on that front.

Ms. Venton.

Ms. Margot Venton: I think I would start by perhaps clarifying that it's simply not true that Canada has the most restrictive environmental regime of any country in the world. It's not even remotely close to true. There have been several very authoritative reviews of the—

Mr. Mel Arnold: I said "most".

Ms. Margot Venton: Yes, but among OECD nations, we rank almost last in the strength of our environmental regulation. If you look just at the example the environment commissioner looked at on Tuesday, our regulation of fish farms, for example, is falling far behind that of other fish-farming nations.

With respect to fisheries, the Magnuson-Stevens fisheries protection act in the United States goes far farther than what we have in Canada with respect to the requirement to proactively assess the health of fish stocks and to do an environmental assessment comprehensively, under their national environmental assessment regulation, of all fishing plans. They have much stricter rules on designation of marine protected areas and essential fish habitat.

Mr. Mel Arnold: You're saying that we need much more restriction here in Canada.

Ms. Margot Venton: The premise of your question is just fundamentally wrong. In the big picture, it's obviously important to be able to regulate—

● (1045)

Mr. Mel Arnold: You're implying that we need much stronger restrictions than we already have here in Canada.

Ms. Margot Venton: No. I'm actually just clarifying that the premise of your question is wrong.

Mr. Mel Arnold: Maybe there's not two-way communication here. I'm not sure.

In your background, you did a lot of research on waste water or sewage in Canada. How is it possible that cities such as Montreal, Quebec City, and Victoria, B.C. continuously dump millions of litres of untreated sewage into our fisheries, yet there is no action taken to prevent that or to, I guess, restrict it in the future?

Ms. Margot Venton: That's an excellent question. I think there should be stronger action. It's another example of how our regulatory system is not as strong as regulatory systems in other countries. It is —

The Chair: Thank you very much, Ms. Venton. I'm sorry, but I'm going to have to cut you off there.

I want to thank our witnesses, Mr. Gibson and Ms. Venton, for appearing today.

Also, thank you to our guests today: Mr. Stewart, Ms. May, and Mr. Fraser.

The meeting is adjourned.

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